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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,637	05/01/2001	Dirk K. Sprakel	20496-285	3512

7590

10/03/2002

Proskauer Rose  
1585 Broadway  
New York, NY 10036

EXAMINER

MORRIS, LESLEY D

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 10/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/786,637

Applicant(s)

SPRAKEL, DIRK K.

Examiner

Lesley D Morris

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on March 7, 2001; May 17, 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6,8,10 and 13-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,13 and 16 is/are allowed.
- 6) ☒ Claim(s) 2,4,6,8,10,14,15 and 17-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Preliminary Amendment***

1. The preliminary amendment filed March 7, 2001 is hereby acknowledged and has been placed of record.

### ***Information Disclosure Statement***

2. The IDS filed June 20, 2001 is hereby acknowledged and has been placed of record. Please find attached a signed and initialed copy of the PTO-1449.

### ***Drawings***

3. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81. No new matter may be introduced in the required drawing.
4. The drawings are objected to because reference letter L and reference number 14 are not present on the internationally published figure. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

5. The abstract of the disclosure is objected to because the last sentence concerning the figure should be removed. Correction is required. See MPEP § 608.01(b).
6. The disclosure is objected to because of the following informalities: On page 5, line 22, the beveled surface is number 5 not 4. On page 6, line 25, the body is number 12 not 1. On page 7, line 19, the nozzle is number 3 not 4. Same page, line 23, number 11 is the foam tube not a jet

Art Unit: 3752

pipe. Same page, line 24, number 13 is the injector nozzle not a nozzle opening. On page 8, lines 16/17, 21, and 22/23, the foam tube is 11 not 12.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 2, 4, 14, 6, 15, 8, 10, and 17-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 utilizes the word “optionally” which suggests that the structure need not be there; however, that structure is the only limitation in claim 2. Claim 4 depends from a cancelled claim. Also, it has the term “the individual jets” in line 2 that has no antecedent basis. Claim 14 indirectly depends from a cancelled claim. Claims 6 and 15 duplicate the liquid being water. Claim 8 depends from a cancelled claim. Also, it contains the term “the extinguisher nozzles” that has no antecedent basis. Claim 10 depends from a cancelled claim. Also, it contains the term “the extinguisher nozzles” that has no antecedent basis. Claims 17-19 depend either directly or indirectly from cancelled claims. Also claim 19 contains a limitation that is confusing and indefinite. Particularly, it calls for the liquid to be selectively applied in various groups. Exactly what does this means and is there support for it?

***Allowable Subject Matter***

9. Claims 1, 13 and 16 are allowed over the prior art of record.

Art Unit: 3752

10. Claims 2, 4, 14, 6, 15, 8, 10, and 17-19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. The claims in paragraphs 9 and 10 and above are found to be allowable because the prior art of record does not teach or fairly suggest the use of a foam and a mist via the same overall fire nozzle and its associated use.

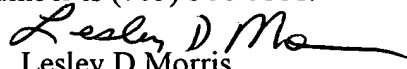
### *Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Emmons et al shows a method of fire fighting where a mist and then a heavier flow are utilized.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lesley D Morris whose telephone number is (703) 308 0629. The examiner can normally be reached on Monday-Thursday (7:30-4:30), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703) 308 2087. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872 9302 for regular communications and (703) 872 9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0861.

  
Lesley D Morris  
Primary Examiner  
Art Unit 3752

LDM  
September 30, 2002

L Number	Hits	Search Text	DB	Time stamp
1	206	(169/47).CCLS.	USPAT; US-PGPUB; EPO; JPO; DERWENT; IBM_TDB	2002/09/27 15:42
2	335	(169/46).CCLS.	USPAT; US-PGPUB; EPO; JPO; DERWENT; IBM_TDB	2002/09/27 15:42
3	73	((169/46).CCLS.) and foam and water	USPAT; US-PGPUB; EPO; JPO; DERWENT; IBM_TDB	2002/09/27 16:02
4	262	(169/45).CCLS.	USPAT; US-PGPUB; EPO; JPO; DERWENT; IBM_TDB	2002/09/27 16:20
5	96	(169/43).CCLS.	USPAT; US-PGPUB; EPO; JPO; DERWENT; IBM_TDB	2002/09/27 16:24
6	117	(169/49).CCLS.	USPAT; US-PGPUB; EPO; JPO; DERWENT; IBM_TDB	2002/09/27 16:30
7	374	(169/48).CCLS.	USPAT; US-PGPUB; EPO; JPO; DERWENT; IBM_TDB	2002/09/27 16:30
8	25	((169/48).CCLS.) and foam and water	USPAT; US-PGPUB; EPO; JPO; DERWENT; IBM_TDB	2002/09/27 16:32
9	102	(169/91).CCLS.	USPAT; US-PGPUB; EPO; JPO; DERWENT; IBM_TDB	2002/09/27 16:32